

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JAMES EDWARD SCOTT, III,

Plaintiff,

v.

FRENANDEIS A. FRAZIER, *et al.*,

Defendants.

Case No.: 3:23-cv-00251-MMD-CSD

ORDER

*Pro se* Plaintiff James Edward Scott, III, who is currently incarcerated in the custody of the Nevada Department of Corrections at Northern Nevada Correctional Center ("NNCC"), filed a civil rights complaint under 42 U.S.C. § 1983 against prison officials for a lack of accommodations in the recreation yard while he was incarcerated at NNCC. (ECF Nos. 1, 1-1.) The Court allowed him to proceed on an Eighth Amendment deliberate indifference to serious medical needs claim against Frenandeis Frazier, William Miller, Perry Russell, K.G. Olsen, Robert Hartman, John W. Henley, and Richard Ashcraft. (ECF No. 4.) The Court also allowed Scott to proceed with a claim as to disability discrimination in prison exercise facilities under the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12132) and the Rehabilitation Act ("RA") (29 U.S.C. § 794(a)). (*Id.*) Defendants subsequently filed a motion for summary judgment ("Motion") asserting that Scott failed to exhaust his administrative remedies.<sup>1</sup> (ECF Nos. 35, 37.) Before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Craig S. Denney (ECF No. 46), recommending the Court grant the Motion. (ECF No. 46 at 2.) To date, no objections to the R&R have been filed. Because there is no objection, and, as further explained below, the Court will adopt the R&R.

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<sup>1</sup>Plaintiff filed a response (ECF No. 41), and Defendants replied (ECF No. 42).

1 Because there is no objection, the Court need not conduct de novo review, and is  
 2 satisfied that Judge Denney did not clearly err. *See United States v. Reyna-Tapia*, 328  
 3 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and  
 4 recommendations is required if, but *only* if, one or both parties file objections to the  
 5 findings and recommendations.” (emphasis in original)). Judge Denney recommends the  
 6 Court grant the Motion because Scott failed to both properly exhaust any grievance  
 7 related to the claims at issue in this case as well as show that the grievance process was  
 8 unavailable to him, as required under the Prison Litigation Reform Act (“PLRA”)<sup>2</sup>. (ECF  
 9 No. 46 at 5-9.) While Scott filed multiple grievances, Judge Denney points out that the  
 10 two most closely related to conditions in the recreation yard—Grievance Nos. 2006-31-  
 11 31996<sup>3</sup> and 2006-31-43640<sup>4</sup>—were, respectively, not fully pursued through all required  
 12 administrative levels and failed to put the prison on adequate notice of any prison policy  
 13 or actions or omissions by the named defendants that prevented him from using his  
 14 walker in the yard. (*Id.* at 7-8.) Having reviewed the R&R, Judge Denney did not clearly  
 15 err.

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 22 <sup>2</sup>Under the PLRA, “[n]o action shall be brought with respect to prison conditions  
 23 under section 1983 of this title, or any other Federal law, by a prisoner confined in any  
 24 jail, prison, or other correctional facility until such administrative remedies as are available  
 25 are exhausted.” 42 U.S.C. § 1997e(a).

26  
 27 <sup>3</sup>Scott claimed that the recreation yards were not ADA-compliant due to the lack of  
 28 restrooms and absence of staff to notify of medical emergencies. (ECF No. 46 at 7; ECF  
 No. 45-1 at 3.)

<sup>4</sup>Scott claimed that a prison doctor and nurse (here, unnamed defendants) violated  
 his Eighth Amendment rights by restricting his walker use to dialysis trips only and  
 denying him a medical order for a walker for use in the recreation yard. (ECF No. 46 at  
 7-8; ECF No. 45-6 at 14-17.)

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2 It is therefore ordered that Judge Denney's Report and Recommendation (ECF  
3 No. 46) is accepted and adopted in full.

4 It is further ordered that Defendants' motion for summary judgment (ECF No. 35)  
5 is granted based on Plaintiff's failure to exhaust his administrative remedies.

6 It is further ordered that the Clerk of Court enter judgment in accordance with this  
7 order and close this case.

8 DATED THIS 8<sup>th</sup> Day of August 2025.

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12 MIRANDA M. DU  
13 UNITED STATES DISTRICT JUDGE  
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